

kmp7299/LRE  
Return Date & Time:  
September 25, 2019 at 10:00 AM

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 18-23391 SHL

NOTICE OF MOTION

MICHAEL J. KRAUS,

Debtor(s).

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PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Sean H. Lane, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street White Plains, NY 10601, on September 25, 2019 at 10:00 AM , or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York  
August 27, 2019

/s/ Krista M. Preuss

KRISTA M. PREUSS, CHAPTER 13 TRUSTEE  
399 KNOLLWOOD ROAD, STE 102  
WHITE PLAINS, NY 10603  
(914)328-6333

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UNITED STATES BANKRUPTCY COURT  
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IN RE:

Chapter 13 Case No: 18-23391 SHL

MICHAEL J. KRAUS,

APPLICATION

Debtor(s).

-----X  
TO THE HONORABLE SEAN H. LANE, U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on September 10, 2018, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.

2. The Debtor has failed to comply with 11 U.S.C. §521(a)(1) and Bankruptcy Rule 1007(b) in that the following required documents have not been filed:

a. copies of all payment advices or other evidence of payment for last 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor pursuant to 11 U.S.C. §521(a)(1)(B)(iv).

3. Furthermore, the Debtor has failed to:

a. provide the Trustee a copy of a federal and state income tax returns or transcripts for the most recent year, specifically, 2018, pursuant to 11 U.S.C. §521(e)(2)(A)(i);

b. provide the Trustee with an affidavit of contribution for each person contributing to the proposed plan or to payment of expenses of the Debtor's household;

c. provide the Trustee with documentation of the current value of all real property in which the Debtor has an ownership interest;

d. amend the Plan to correct the amount owed to the Internal Revenue Service to be in conformity with priority Claim # 4; and

e. serve the Plan on the Trustee and all creditors and file the proof of service thereof as required by S.D.N.Y. LBR 3015-1(c)

4. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to priority claim #2 of the Internal Revenue Service as required by 11 U.S.C. §1322(a)(2).

5. The Debtor's failure as stated above impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

6. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York  
August 27, 2019

/s/ Krista M. Preuss  
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 18-23391 SHL

MICHAEL J. KRAUS,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

-----X

This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

MICHAEL J. KRAUS  
27 Valenza Lane  
Blauvelt, New York 10913

Adams Law Group LLC  
160 Summit Avenue 2nd Fl.  
Montvale, New Jersey 07645

Internal Revenue Service  
PO. Box 7346  
Philadelphia, Pennsylvania 19101-7346

TIAA FSB d/b/a TIAA Bank  
c/o Shapiro DiCaro & Barak, LLC  
175 Mile Crossing Blvd.  
Rochester, New York 14624

U.S. Bank National Association  
c/o SN Servicing Corporation  
323 5<sup>th</sup> Street  
Eureka, California 95501

U.S. Bank National Association  
SN Servicing Corporation  
Friedman Vartolo, LLP  
85 Broad Street # 501  
New York, New York 10004

This August 27, 2019

/s/Lois Rosemarie Esposito  
Lois Rosemarie Esposito, Paralegal Case Support  
Office of the Standing Chapter 13 Trustee  
Krista M. Preuss, Esq.  
399 Knollwood Road, Suite 102  
White Plains, New York 10603  
(914) 328-6333

CHAPTER 13 CASE NO: 18-23391 SHL  
UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

MICHAEL J. KRAUS,

Debtor(s).

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NOTICE OF MOTION, APPLICATION  
and  
CERTIFICATE OF SERVICE

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KRISTA M. PREUSS  
STANDING CHAPTER 13 TRUSTEE  
399 KNOLLWOOD ROAD, SUITE 102  
WHITE PLAINS, NEW YORK 10603  
(914) 328-6333

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